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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,964	06/25/2003	Michael E. Frezza	1-73788	3738

27377 7590 07/08/2005

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA-FOURTH FLOOR
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TOLEDO, OH 43604

EXAMINER

KOCH, GEORGE R

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 07/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/603,964

Applicant(s)

FREZZA ET AL.

Examiner

George R. Koch III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-12 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-22 is/are allowed.
- 6) ☒ Claim(s) 13, 14 and 16 is/are rejected.
- 7) ☒ Claim(s) 15, 17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of group I, claims 13-18 in the reply filed on 4/20/2005 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 13 and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Falck (US 6,416,582 B2).

Falck discloses a method for dispensing fluid for forming a bond between plies of a vehicle interior panel comprising: providing a reservoir containing an amount of fluid (see Figure 6); providing a spray mechanism (item 21) for dispensing the fluid from the reservoir; positioning the fluid within the reservoir source at an initial height above the spray mechanism (item 40); operating a controller (item 22) to determine the initial height of the fluid; operating the spray mechanism to dispense an amount of the fluid; operating the controller to determine a second height of the fluid (column 5, lines 41-58); and calculating the amount of fluid used during the dispensing operation (see

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column 5, line 59 to column 6, line 67, and see item 18) (and see columns 3-7 as well).

The metal strip can be the element that is used as the first vehicular headliner ply.

As to claim 16, Falck discloses that the height is checked prior to each dispensing cycle (see column 5, lines 25-40).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Falck as applied to claim 13 above.

Falck discloses using the controller (item 16) to controlling the refilling of the reservoir from a fluid source (item 22), but does not disclose a valve operatively connected to the controller for refilling the reservoir (item 18) from the fluid source.

Falck does disclose that the refilling is turned on, and shut off in an intermittent manner

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(see columns 4-7) but is silent as to the structure. Official notice is taken that it would have been well known and conventional to implement a valve connected between the controller and for refilling the reservoir. One in the art would immediately recognize that either a pump, or a valve or equivalent structures would be required to implement the disclosed functionality. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to utilize such a well known structure such as a valve in order to control the disclosed refilling of the reservoir within the requirements of Falck.

Allowable Subject Matter

7. Claims 19-22 are allowed.

8. The following is an examiner's statement of reasons for allowance: Each and every individual element is known. The applicants admitted prior art (pages 1 and 2) discloses the concept bonding providing or joining vehicle panels from first and second vehicle panels. Falck discloses all of the fluid control mechanisms and method. However, the prior art of record does not suggest any motivation to combine these teachings.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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9. Claims 15, 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: As to claim 15, the prior art of record does not suggest that the controller operates as claimed. Specifically, Falck uses a completely different control system for correcting based on the amount of fluid used (called the usage rate - this is described in column 6, lines 43 to column 7, line 7) wherein the spray valves are corrected in order to reach the predetermined amount of fluid used.

11. As to claim 17, the prior art of record does not suggest determining the fluid height based on the density of the fluid, the fluid pressure at the spray mechanism, and the gravitational force constant. Falck merely uses a height sensor (item) which measures the height or top of the fluid.

12. As to claim 18, the applicants admitted prior art (pages 1 and 2) discloses the concept bonding providing or joining vehicle panels from first and second vehicle panels. Falck discloses all of the fluid control mechanisms and method. However, the prior art of record does not suggest any motivation to combine these teachings.

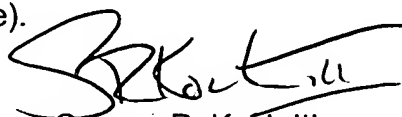
Any inquiry concerning this communication or earlier communications from the examiner should be directed to George R. Koch III whose telephone number is (571) 272-1230. The examiner can normally be reached on M-Th 10-7.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla can be reached on (571) 272-1187. The fax phone

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number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "G. Koch III", is written over the printed name.

George R. Koch III
Patent Examiner
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GRK
6/30/2005